

June 2006 Litigation Report

To: Mayor McCoy & County Commissioners
Suzanne Hutton, County Attorney
Tom Willi, County Administrator

From: Bob Shillinger, Chief Assistant County Attorney

Date: June 16, 2006

ABS

Summary

Number of Cases

New cases filed since last month	5	Airports	1
Cases closed since last report	3	Constitutional Officers	7
CAY active cases	63	Engineering	7
CAY Post Judgment cases	4	Growth Management	57
Potential cases not yet filed	13	Miscellaneous	5
Outside Counsel Cases	28	Human Resources	2
		Public Works	6
Total Cases pending	74	Risk Management	6

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CAY Litigation Cases Trial & Appellate Level	4
CAY Post Judgment Cases	16
Potential Cases	17
Outside Counsel Cases	21
Ferencik, Libanoff (Ira Libanoff) (4 cases)	21
Johnson, Anselmo, (Bruce Johnson & Michael Burke) (14 cases)	22
Paul, Hastings (Bob Freilich & Derek Howard) (3 cases)	27
The Smith Law Firm (Wayne Smith) (1 case)	28
Vernis & Bowling (D.Smits, K.Willis & S.Black) (6 cases)	28

CASES FILED SINCE LAST MONTH'S REPORT

Accredited Home Lenders, Inc. v. Olga Ruiz & Monroe County CA K 06-543

16th Circuit

Judge:

Date Filed: 5/25/06

Mortgage foreclosure action on property County holds \$36k SHIP mortgage on.

Monroe County Housing Authority

RBS

Current Status: County's Answer, Cross & Counterclaims filed 6/15/6.

Next Activity: 6/21/6, seek authority from BOCC to negotiate buy out by Housing Authority.

Time: 3.9

Costs: 0.00

Dorn, Kenneth & Katie Pearce v. Monroe County

CA P 06-203

16th Circuit

Judge: Garcia

Date Filed: 5/15/06

Quiet title action challenging imposition of conservation easement.

Growth Management/Planning

RBS

Current Status: Awaiting service on the Mayor.

Next Activity: File response once served.

Time: 5.1

Costs: 0.00

Evans, Ronald & Maryanna v. Monroe County & K.L.O.R.

CA P 06-506

16th Circuit

Judge: Garcia

Date Filed: 05/15/6

Declaratory Judgment action seeking to enjoin entering into development agreement with Key Largo Ocean Resorts Co-Op, Inc.

Growth Management/Planning

Current Status: Mayor served 5/16/06.

Next Activity: Response filed.

Time: 14.2

Costs: 0.00

Hyland, Thomas G. v. Danny L. Kolhage **06-TBA**
11th Circuit (US) **Judge: TBA** **Date Filed: 5/4/6**

Appeal of dismissal of Clerk from Civil Rights suit for alleged actions of deputy clerk. Johnson, Anselmo is coverage counsel & co-counsel to CAY.

Constitutional Officer/Clerk

RBS

Current Status: Record being compiled.

Next Activity: Briefing process.

Time: 8.6 **Costs:** 0.00

Billing to Date: none

Neumont, Elizabeth v. State & Monroe County **SC 06-TBA**

Fla. Supreme Court **Judges: en banc** **Date Filed: 6/14/6**

Certified question from the 11th Circuit to the Florida Supreme Court seeking guidance on proper interpretation of F.S. 125.66(4), ordinance notice provision.

Growth Management/Planning

RBS

Current Status: Interviewing appellate counsel; coordinating with potential *amicus curiae*;

Next Activity: Neumont's brief due by 7/5/6.

Time: 2.7 **Costs:** 0.00

CASES CLOSED SINCE LAST MONTH'S REPORT -- none

Collins, C. & Sum Air Services v. Monroe County, et al **CAM-05-146**

Circuit Court 16th **Judge: Payne** **Date Filed: 6/1/05**

Declaratory judgment action regarding lease with FBO at Marathon Airport.

Airports

PJM

Current Status: Dismissed 6/12/06 by agreement.

Next Activity: Closed.

Time: 0.5 hours **Costs:** 0.00

Kresser, Mark v. Irvin Higgs, D. Kolhage and/or V.A.B. **TBA**
Circuit Court (16th) or US Dist. Court **Date Filed: TBA**

Threatened action for extraordinary writ challenging denial of homestead exemption or § 1983 claim for damages due to alleged lack of hearing notice for final hearing of VAB.

Constitutional Officer **RBS**

Current Status: No action filed against VAB by statute of limitations deadline.

Next Activity: Closed.

CAY Time: 11.5

Costs: 0.00

State of Florida & Monroe County v. Galleon Bay Corp. **3D06-927**
Third DCA **Judges: TBA** **Date Filed: 4/20/6**

Petition seeking Writ of Prohibition enjoining Circuit Court in CA K 02-595 from exercising authority in excess of its jurisdiction.

Growth Management/Planning **RBS**

Current Status: Writ of Prohibition denied 6/2/6.

Next Activity: None. Closed.

Billing to date: See billing for CA K 02-595.

CAY Time: 1.0

CAY LITIGATION – Trial & Appellate Level
See Outside Counsel Section for Cases being Handled Jointly

Aguiar, Alexander & Elizabeth Ginart v. Monroe County **CA P 06-189**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/5/06**

Appeal from decision of Code Enforcement Special Magistrate

Growth Management/Code Enforcement **PJM**

Current Status: Record to be compiled by Appellant.

Next Activity: Appellant's brief due 7/14/06.

Time: 0.5

Costs: 0.00

Ambrose, Thora et al v. Monroe County et al **CA P 97-636**

Circuit Court 16th **Judge: Garcia** **Date Filed: 12/11/97**

Declaratory Judgment action claiming vested rights due to subdivision plats.

Subsequent appeal of summary judgment order reversed and remanded.

Growth Management/Planning

JDS

Current Status: Review of Court file indicates case still pending.

Next Activity: Schedule hearing on Motion to Dismiss.

M&H Billing to date: \$30,960.98.

CAY Time: 2.5

In re: Birch Telecom, Inc.

05-12237 PJW

U.S.Bnktcy.Delaware **Judge: Walsh**

Date Filed: 8/12/05

Bankruptcy action by pay phone vendor which claims it owes County \$4.15.

Administrative Services/Technical Services

RBS

Current Status: Claim deadline passed 11/4/05. County's interest \$4.15.

Next Activity: None.

Time: 1.0

Costs: 0.00

Bond, James T. et al v. Monroe County

CA K 06-394

Circuit Court 16th **Judge: Jones**

Date Filed: 4/21/06

Declaratory Judgment action seeking injunction against enforcement of flood plain regulations on downstairs enclosure that exceeded scope of permit.

Growth Management/Building Dept./Code Enforcement

RBS

Current Status: Proposed Settlement Agreement to BOCC 6/21/6.

Next Activity: If not settled, answer due 6/30/6.

Time: 7.2

Costs: 0.00

In re: Meghan Cole **05-43879 RAM**
Bankrtcy. S.D.Fla. **Judge: Mark** **Date Filed: 10/17/05**
Bankruptcy action by tenant of County property. County owed \$760.00 in rent.
Bankruptcy **RBS**

Current Status: County's interest too minimal to take more than passive stance.

Next Activity: Final approval of plan or discharge.

Time: 1.0 **Costs:** 0.00

Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services **CAK-05-617**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/05**
Complaint for unspecified damages. Mayor not served yet.
Constitutional Officer/MCSO **RBS**

Current Status: Inactive.

Next Activity: None unless & until served.

Time: 0.6 hours **Costs:** 0.00

Eads, Barbara v. Monroe County **CAP-03-117**
Circuit Court 16th **Judge: Garcia** **Date Filed: 2/27/03**
Appeal of order finding the Lowe House to be in unsafe condition.
Growth Management/Code Enforcement **RBS**

Current Status: Historic structure being renovated.

Next Activity: None at this time.

Time: 4.8 hours **Costs:** 0.00

EEOC v. Monroe County **150-2005-03773**
EEOC – Miami **Judge: N/A** **Date Filed: 9/7/05**
Charge of disability discrimination filed by an employee.
Public Works/Human Resources **PJM**

Current Status: File closed without conciliation.

Next Activity: Await filing of suit by employee.

Time: 16.6 hours **Costs:** 0.00

Fuchs, Walburga v. Monroe County **CAK-01-1251**
Circuit Court 16th **Judge: Payne** **Date Filed: 10/5/01**
This is a code enforcement appeal of an OSTDS case..
Growth Management/Code Enforcement **RBS**

Current Status: The Court *sua sponte* scheduled oral argument.

Next Activity: Await rescheduled date for oral argument.

Time: 11.5 hours **Costs:** 0.00

Good, Lloyd v. Monroe County **CA K 01-977**
Circuit Court 16th **Judge: Payne** **Date Filed: 8/9/01**
Inverse condemnation action based on NROGO and declaratory judgment that
owner be awarded permits for properties.
Growth Management/Planning **RBS**

Current Status: Responses to Case Management Order filed.

Next Activity: County's Motion to Dismiss set for 6/26/06.

M&H Billing to date: \$18,526.41 as of 10/31/05.
CAY Time: 18.4

Graves, Frank III v. Monroe County **CA P 06-154**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/7/06**
Code Enforcement appeal
Growth Management/Code Enforcement **PJM**

Current Status: Record to be compiled by Appellant.

Next Activity: Appellant's brief due 6/16/06.

Time: 0.5 **Costs:** 0.00

Hardin, Michelle v. Monroe County **CA K 99-1046**
Circuit Court 16th **Judge: Miller** **Date Filed: 9/3/99**
Appeal of code enforcement decision.
Growth Management/Code Enforcement **RBS**

Current Status: Status review on pending motions.

Next Activity: Hearing on Motion to Dismiss, tba.

M&H Billing to date: \$10,241.57 thru 8/31/05.
CAY Time: 6.5

Johnson, Lloyd v. Marlene Conaway **CA K 02-1248**

Circuit Court 16th **Judge: Payne** **Date Filed: 10/30/02**

Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.

Growth Management/Planning **JDS**

Current Status: Status report from Judge's chambers pending.

Next Activity: If needed, schedule hearing on Motion to Dismiss.

M&H Billing to date: \$2,219.62 through 8/31/05.

CAY Time: 3.4

Kalan, Suzanne v. Monroe County **CA P 03-155**

Circuit Court 16th **Judge: Garcia** **Date Filed: 3/11/03**

Inverse condemnation action.

Growth Management/Code Enforcement **RBS**

Current Status: Held in abeyance pending BUD hearing.

Next Activity: Finalize motion for substitution of counsel.

M&H Billing to date: \$2,855.77 as of 8/31/05.

CAY Time: 1.0

McIntyre, Edward v. Richard Roth & Monroe County **80-1721-CIV-WMH**

US Dist. SDFla. **Judge: Hoeveler** **Date Filed: 7/8/80**

Civil Rights action filed in 1980 over old jail facilities. Settled 12/1991.

Constitutional Officer/MCSO **RBS**

Current Status: Status report being finalized.

Next Activity: Status conference to be scheduled.

CAY Time: 13.0 **Costs:** \$86.77 (since March 2005)

Monroe County v. Matthew Bonnett **CAK-05-911**
Circuit Court 16th **Judge: TBA** **Date Filed: 9/9/5**
Code enforcement lien collection action authorized 10/17/04, \$78,000.
Growth Management/Code Enforcement **PJM**

Current Status: DF's answer overdue.

Next Activity: Move for default.

Time: 6.8 hours **Costs:** \$295.00

Monroe County v. Alain Y. Depierrefeu **CAK-03-1504**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: Negotiations ongoing.

Next Activity: Motion to vacate default 7/26/6.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 6.6

Monroe County v. Alain Y. Depierrefeu **CAK-03-1507**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC on 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: same as previous entry.

Next Activity: Motion to vacate default 7/26/6.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 3.5 hours

Monroe County v. Jack Hagopian **CAP 03-529**
Circuit Court 16th **Judge: Garcia** **Date Filed: 10/1/03**
Code enforcement collection action authorized by BOCC on 8/20/03. Fine exceeds \$300,000.00 as of 1/1/6 and accruing at \$250.00 per day.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement agreement and check received.

Next Activity: Monitor status of compliance.

Time: 46.5 hours **Costs:** \$801.70

Monroe County v. Dorothy Hough, et al **CAP-05-160**
Circuit Court 16th **Judge: Garcia** **Date Filed: 4/6/05**

Action to collect unpaid code enforcement fine of \$61,850.00.

Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations ongoing.

Next Activity: Finalize settlement agreement.

Time: 16.2 hours **Costs:** \$596.00

Monroe County v. James Jeanquenat **CAP-05 317**
Circuit Court 16th **Judge: Garcia** **Date Filed: 7/18/05**

Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.

Growth Management/Code Enforcement **RBS**

Current Status: Motion for Dismiss filed.

Next Activity: Motion hearing TBA.

Time: 3.7 hours **Costs:** \$275.00

Monroe County v. Key Largo Ocean Resorts Coop, Inc. **CAP-96-260**
Circuit Court 16th **Judge: Garcia** **Date Filed: 5/20/96**

Action to foreclose a code enforcement lien.

Growth Management/Code Enforcement **RBS**

Current Status: Development agreement application being reviewed.

Next Activity: Status report due with the Court 7/1/06.

Time: 41.5 hours **Costs:** \$340.00

Monroe County v. Pedro Liz **CAK-05-420**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/22/05**

Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.

Growth Management/Code Enforcement **RBS**

Current Status: Guardian appointed. Motion for default cancelled.

Next Activity: Waiting on bond of Guardian to receive answer.

Time: 9.0 hours **Costs:** \$555.00

Monroe County v. Mary Ellen Lloyd **CAM-03-362**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/19/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

Growth Management/Code Enforcement **RBS**

Current Status: Settlement offer to BOCC at July 2006 meeting.

Next Activity: If not settled, mediation by 8/15/06.

V&B Fees billed to date: None

Costs: 0.00

CAY Time: 5.4 hours

Monroe County v. Arthur Mehr **CAP-05-348**

Circuit Court 16th **Judge: Garcia** **Date Filed: 8/5/05**

Code fine collection action. Fine exceeds \$42,000.00.

Growth Management/Code Enforcement **RBS**

Current Status: Discovery.

Next Activity: Discovery.

Time: 13.4 hours

Costs: \$850.00.

Monroe County v. James Messera, et al **CAK-03-1509**

Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

Growth Management/Code Enforcement **RBS**

Current Status: Discovery.

Next Activity: Discovery.

V & B Fees billed to date: 67.3

Costs: \$1029.03

CAY Time: 3.0

Monroe County v. Outland Properties **CAP-05-400**

Circuit Court 16th **Judge: Garcia** **Date Filed: 9/9/5**

Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.

Growth Management/Code Enforcement **PJM**

Current Status: Defendant served.

Next Activity: Discovery.

Time: 1.6 hours

Costs: 300.00

Monroe County v. Joe Posada, III **CAK-03-1503**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action authorized by the BOCC 4/18/03.
Growth Management/Code Enforcement **RBS**

Current Status: BOCC approved settlement agreement 5/16/06.

Next Activity: Present agreement to Court to for final approval.

V & B Fees & Costs billed to date: None.
CAY Time: 8.1 hours

Monroe County v. Virginia Sawyer & Tony Welters **CAK-03-1505**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V & B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.0

Monroe County v. Virginia Sawyer **CAK-03-1506**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/18/03**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Court approved settlement agreement, injunction, lien.

Next Activity: Enforcement if not compliance.

V&B Fees & Costs billed to date: \$11,745.44
CAY Time: 6.7 hours

Monroe County v. Louis Welters **CAK-04-639**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/14/04**
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.
Growth Management/Code Enforcement **RBS**

Current Status: Settlement negotiations pending.

Next Activity: If unsuccessful, move for summary judgment.

V&B Fees billed to date: None **Costs:** 0.00
CAY Time: 2.5

O'Daniel, John & Theresa Hill v. Monroe County **CA P 02-141**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/13/02**

Appeal of code enforcement action and vested rights claim.

Growth Management/Code Enforcement/Planning **JDS**

Current Status: Mandate from Third DCA received 1/13/06.

Next Activity: Status inquiry with chambers pending.

M&H Billing to date: \$42,782.73 as of 10/31/05

CAY Time: 2.5

Neumont, Elizabeth et al. v. Monroe County **99-10054-CV**
U.S. Dist. Ct., S.D.Fla. **Judge: Paine** **Date Filed: 5/21/99**

Class action challenging enactment of vacation rental ordinance.

Growth Management/Planning **RBS**

Current Status: Briefs completed.

Next Activity: None, await ruling.

M&H Billing to date: \$123,563.24.

CAY Time: 0.5

Neumont, Elizabeth et al. v. Monroe County **04-13610-X**
11th Circuit Court of Appeals **Judges: TBA** **Date Filed: 7/15/04**

Appeal of 99-10054-CV above.

Growth Management/Planning **RBS**

Current Status: Court certified question to Florida Supreme Court.

Next Activity: None in 11th Circuit until certified question answered.

Billing to date: \$123,565.49 as of 8/31/05 (by former outside counsel).

CAY Time: 4.5

Nunziant, Marilyn v. Monroe County **CAK-04-1227**
Circuit Court 16th **Judge: Jones** **Date Filed: 11/18/04**
Suit challenging Bayshore's rule requiring family members to subsidize residents.
Community Services/Social Services **RBS**

Current Status: PL has passed away. Settlement offer pending.

Next Activity: Settlement agreement before BOCC on 6/21/6.

Time: 83.2 hours **Costs:** 0.00

Oliveros, Joseph v. Ana M. Velazquez & Monroe County **CA P 06-130**
Circuit Court 16th **Judge: Garcia** **Date Filed: 3/20/06**
Quiet title action to property conveyed via tax deed.
Constitutional Officer/Clerk/Tax Collector **RBS**

Current Status: County has no interest to defend in case.

Next Activity: None.

Time: 1.8 **Costs:** 0.00

Sierra Club, et al v. DCA, Miami Dade & City of Homestead **03-150-GM**
DOAH **Judge: Maloney** **Date Filed: 1/17/03**
County intervened in administrative challenge to amendment of Miami-Dade's
comp. plan redesignating Krome Avenue to a major roadway (3 or more lanes).
Growth Management/Planning **JDS**

Current Status: Proposed Recommended Order filed 2/3/6.

Next Activity: Await ruling by ALJ.

Billing to date: None, *pro bono*. (by former outside counsel).
CAY Time: 6.0

Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al **CAM-04-404**
Circuit Court 16th **Judge: Payne** **Date Filed: 12/16/04**
Declaratory judgment action over road in City of Marathon.
Public Works/Roads and Bridges **PJM**

Current Status: Pleadings & discovery completed.

Next Activity: Mediation 6/26/06. Hearing on motion to dismiss 7/17/06.

Time: 9.5 hours **Costs:** \$133.00

Troy, Daniel Scott v. Monroe County **CAK 05-856**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/24/05**
Mandamus action seeking after the fact building permits.
Growth Management/Planning **RBS**

Current Status: On appeal in 3D 05-2419.

Next Activity: No brief will be filed Troy has removed structure per Herzog.

Time: 2.0 hours **Costs:** 0.00

Troy, Daniel Scott v. Monroe County **3D 05-2419**
Third DCA **Judges: TBA** **Date Filed: 10/7/05**
Appeal of denial of writ of mandamus in CA K 05-856.
Growth Management/Planning **RBS**

Current Status: Troy given until 6/3/06 to file his brief for faced dismissal.

Next Activity: Will be dismissed according to appellant's counsel.

Time: .7 **Costs:** 0.00

Walgreens & Gadinsky v. Monroe County **CAK-05-266**
Circuit Court 16th **Judge: Taylor** **Date Filed: 3/11/05**
Cert. review of DOAH order upholding 1/6 findings supporting denial of major
conditional use application for Big Pine Walgreens.
Growth Management/Planning **RBS**

Current Status: Settlement approved by BOCC 5/16/06.

Next Activity: Present settlement agreement to Court for OK 6/19/6.

Time: 41.0 hours **Costs:** \$318.57

In re: Winn Dixie Stores, Inc. **05-03817-3F1**
U.S. Bankruptcy Ct., M.D.Fla. **Judge: Jerry Funk** **Date Filed: 2/25/05**
Voluntary Ch11 case where County *might* have a claim against the estate.
Bankruptcy **RBS**

Current Status: Could find no basis for filing proof of claim.

Next Activity: None needed.

Time: 0.9 hours **Costs:** 0.00

CAY POST JUDGMENT CASES

Evans, Brian v. Monroe County, et al **04-CIV-10033-JLK**
U.S. Dist., S.D. Fla. (Miami) Judge: King **Date Filed: 5/6/04**
Money Judgment of \$4,579.00 in favor of County & MCSO for rule 11 sanctions.
Constitutional Officer/MCSO **RBS**

Current Status: \$4,579.00 in fees awarded to County & MCSO.

Next Activity: Collection.

CAY Time: 9.5 hours

Costs: 0.00

Monroe County v. William L. Davis **CAP-04-181**
Circuit Court 16th Judge: Garcia **Date Filed: 4/15/04**
Money judgment of \$27,600.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment of \$28,431.00 recorded w/ Dept. of State.

Next Activity: Collection.

Time: 6.2 hours

Costs: \$56.00

Monroe County v. Dan Gleason **SCP-03-165**
County Court (Sm. Claims) Judge: Ptomey **Date Filed: 8/5/03**
Money judgment of \$520.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment recorded w/ Dept. of State.

Next Activity: Collection.

Time: 9.5 hours

Costs: \$65.92

Monroe County v. Lily Marks **CAK-03-1152**
Circuit Court 16th Judge: Jones **Date Filed: 10/2/03**
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.
Growth Management/Code Enforcement **RBS**

Current Status: Final judgment entered for \$795,270.00 on 5/9/05.

Next Activity: Collection.

Time: 8.5 hours

Costs: \$55.00

POTENTIAL CASES THAT HAVE NOT YET BEEN FILED

Assoc. for Disabled Americans & Wisniewski v. Shipsway, Inc. 06CV10034

U.S.D.C.S.D.Fla.

Judge: King

Date Filed: 4/7/6

ADA suit against owner and some tenants at Shipsway office building. County is a tenant but has not been named to date.

Public Works/Facilities

RBS

Current Status: Monitoring suit since County not a party.

Next Activity: Preliminary Injunction hearing 5/24/06 at 4pm.

Time: 2.4

Costs: 0.00

Ballard, Kandi v. Bergen Trust and Monroe County

TBA

TBA

Judge: TBA

Date Filed: TBA

Personal injury case allegedly arising from County hurricane debris activity on property owned by Bergen Trust.

Risk Management/Engineering

RBS

Current Status: Reviewing claim and information provided.

Next Activity: None until/unless suit is filed.

Time: 7.1

Costs: \$0.00

BOCC v. Donald Brown and Glenda Rentz

TBA

Circuit (16th)

Judge: TBA

Date Filed: TBA

Code Enforcement Lien collections: BK11 Lt 9 & Lt 10 Coppit Sub

Growth Management/Code Enforcement

PJM

Current Status: Demand letter sent.

Next Activity: File suit if no response w/in 30 days.

Time: 0.5

Costs: 0.00

Bott, Andrew & Donna v. City of Marathon **CA M 05-267**
Circuit Court (16th) **Judge: Payne** **Date Filed: 9/30/05**

Declaratory Judgment action challenging validity of affordable housing deed restriction City of Marathon inherited from County at time of incorporation.

Growth Management/Planning **RBS**

Current Status: Appealed to 3rd DCA;

Next Activity: None pending appeal.

Time: 13.5 **Costs:** 0.00

Bott, Andrew & Donna v. City of Marathon **3DCA06-1261**
Third DCA **Judges: TBA** **Date Filed: 5/24/6**

Appeal of dismissal of declaratory judgment action over affordable housing deed restriction the City of Marathon inherited from County when it incorporated.

Growth Management/Planning **RBS**

Current Status: Reviewing record.

Next Activity: Bott's brief due: 8/2/6

Time: .5 **Costs:** 0.00

Calusa Campground Condo v. Monroe County, et al., **TBA**
Circuit Court (16th) **Judge:** **Date Filed:**

Threatened action by condominium resulting from statements regarding platting requirements by Growth Management personnel.

Growth Management/Planning **JDS**

Current Status: Investigating claim & preparing response.

Next Activity: Awaiting claimant's filing proper subdivision plat for approval.

Time: 2.5 **Costs:** 0.00

Cormier, Leonard **TBA**
Circuit Court (16th) **Judge: TBA** **Date Filed: TBA**

Personal injury claim arising from alleged injuries at East Martello

Risk Management/Public Works **RBS**

Current Status: Assisting Risk with investigation of claim.

Next Activity: Issue letter by 11/22/06.

Time: 0.2 **Costs:** 0.00

Good, Lloyd v. Monroe County **TBA**
Circuit Court (16th) **Judge:** **Date Filed:**
Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.
Growth Management/Planning **RBS**

Current Status: Settlement discussions underway.

Next Activity: None. Stayed during Good's application for major conditional use.

Time: 8.6 hours **Costs:** \$5.56

Hamelton, Charles v. KWRU & Monroe County **CA K 04-740**
Circuit Court (16th) **Judge: Miller** **Date Filed: 7/6/04**
Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.
Public Works/Roads and Bridges/Risk Management **RBS**

Current Status: County depositions concluded; County not a party yet.

Next Activity: None scheduled.

Fees Billed to Date: 0.00 **Costs:** 0.00
CAY Time: 14.1

Lee, Vera Estate of **CP K 02-112**
Circuit Court 16th **Judge: Taylor** **Date filed: 5/14/02**
County has claim in probate case for an elderly home loan & unpaid taxes.
Housing Authority & Constitutional Officer **RBS**

Current Status: File administratively closed by the Judge; discussions with heirs on settlement ongoing

Next Activity: Re-open estate, sell property to clear all liens.

Time: 2.9 **Costs:**

Monroe County v. Estate of Thomas O'Brien **TBA**
Small Claims Monroe **Judge: TBA** **Date Filed:**

Action against estate to collect unpaid ambulance bill of \$861.81. Probate case is CP K 05-164.

Emergency Services/EMS **RBS**

Current Status: Settlement agreement approved by the probate court.

Next Activity: Inventory filed; Awaiting payment.

Time: 3.6 **Costs:** 0.00

State of Florida v. Monroe County **TBA**
TBA **Judge: TBA** **Date Filed: n/a**

AG's Medicaid Fraud unit alleges over billings for ambulance services.

Public Safety/Fire Rescue **RBS**

Current Status: Waiting over a year for AG's office to set up conference.

Next Activity: None scheduled.

Time: 9.2 hours **Costs:** 0.00

Stewart, Becky v. Monroe County **TBA**
TBA **Judge: TBA** **Date Filed: TBA**

Property damage claim (\$3,287.13) arising from accident involving County vehicle in Ocala. County's claim against Stewart is \$2,487.70.

Risk Management **RBS**

Current Status: Negotiations stalled due to offsetting claims.

Next Activity: Defend suit if filed; file suit if appropriate.

Time: 1.4 **Costs:** \$0.00

CASES BEING LITIGATED BY OUTSIDE COUNSEL

Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.

Monroe County v. Bender & Associates, et al **CAK-03-915**
Circuit Court 16th **Judge: Jones** **Date Filed: 8/4/03**
Breach of contract and negligent misrepresentation action arising from the
defective windows in the Gato building.
Engineering/Construction Management **RBS**

Current Status: Discovery ongoing.

Next Activity: Discovery ongoing.

Fees billed to date: \$102,658.50 **Costs:** \$12,720.38 (thru 4/20/06)

Monroe County v. Jose Gonzalez **CA K TBA**
Circuit Court 16th **Judge: TBA** **Date Filed: TBA**
Possible breach of contract action against County's former architect.
Engineering/Construction Management **RBS**

Current Status: Discussions with Gonzalez

Next Activity: Schedule meeting with staff & Gonzalez.

Fees billed to Date: \$11,119.87 **Costs:** \$872.21 (thru 3/10/06)
CAY Time: 12.5

Monroe County v. Lodge Construction, et al **CAK-00-617**
Circuit Court 16th **Judge: Payne** **Date Filed: 5/11/00**
Suit filed against general contractor Lodge Construction & its surety for breach of
contract to build Gato Building.
Engineering/Construction Management **RBS**

Current Status: Motion to set before Senior Judge pending.

Next Activity: Ruling on Senior Judge motion pending & trial date to be set.

Fees billed to date: \$298,595.26 **Costs:** \$71,523.31 (thru 4/20/06).

Tropex Construction Service, Inc. v. Monroe County **CA P 06-44**
Circuit Court 16th **Judge: Garcia** **Date Filed: 1/30/06**

Breach of contract suit filed by contractor who terminated contract to build
Tavernier Fire Station before commencement of construction.

Engineering/Construction Management **RBS**

Current Status: Motion to dismiss pending.

Next Activity: Set hearing on County's motion to dismiss.

Billing Received to date: none.

CAY Time: 1.1 **Costs:** 0.00

Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.

Bauknight, Skaggs & Rockett v. Monroe County **CAP-04-451**
Circuit Court 16th **Judge: Garcia** **Date Filed: 9/24/04**

Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague
Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.

Growth Management/Planning **RBS**

Current Status: Third party complaint against State filed 1/11/06.

Next Activity: Discovery.

Fees billed to date: \$832.24 **Costs:** 0.00

Bauknight, Skaggs & Rockett v. Monroe County **04-CV-10105**
U.S. D.C. S.Fla. **Judge: Moore** **Date Filed: 11/1/04**

Inverse condemnation/takings case by owners of 3 Big Pine lots.

Growth Management/Planning **RBS**

Current Status: None.

Next Activity: None.

Fees billed to date: None **Costs:** 0.00

Bauknight, et al. v. Monroe County **05-10868-F**
11th Cir. Ct. of Appeals Judge: TBA **Date Filed: 2/11/05**
Property owners' appeal of denial of attorney's fees against the County
Growth Management/Planning **RBS**

Current Status: 6/14/6 11th Circuit denied motion for rehearing. affirmed decision denying owners' fees. County awarded appellate costs.

Next Activity: None; await 90 day period for expiration of time to petition U.S. Supreme Court for certiorari review.

Fees billed to date: None. **Costs:** 0.00

Florida Key Deer v. Michael Brown & Gale Norton **90-10037-CIV-Moore**
U.S. Dist. Ct., SD Fla. Judge: Moore **Date Filed: 4/2/90**
ESA case that resulted in permanent injunction barring FEMA flood insurance.
Growth Management/Planning **RBS**

Current Status: Injunction in place. 6/9/6, Federal defendants moved for two month extension to produce revised biological opinion and new RPAs.

Next Activity: On appeal, see 05-16374-II

Billing to Date: none **Costs:** 0.00
CAY Time: 33.8

Paulson, R.D. v. Florida Key Deer, et al **05-16374-II**
11th Circuit Judges: TBA **Date Filed: 11/10/05**
Appeal of Southern District's injunction in 90-10037-CIV. County appeared as *amicus curiae* because denied intervention. See Case No.: 05-16990-II.
Growth Management/Planning **RBS**

Current Status: Briefs complete.

Next Activity: Awaiting decision by Court.

Billing to date: none
CAY Time: 0.5 **Costs:** 0.00

Monroe County v. Florida Key Deer, et al **05-16990-II**
11th Circuit **Judges: TBA** **Date Filed: 12/12/05**
Appeal of denial of County's motion to intervene in 90-10037-CIV.
Growth Management/Planning **RBS**

Current Status: Briefs complete.

Next Activity: Await decision by the Court.

Billing to Date: None
CAY Time: 1.0

Florida Key Deer, et al v. Gale Norton (Sec. of Interior) **05-10063-CIV-KING**
U.S.D.C. S.D.Fla. **Judge: King** **Date Filed: 6/15/05**
ESA challenge to F&WS review of construction of park on Big Pine Key.
Engineering/Construction Management **RBS**

Current Status: Dismissed with prejudice by agreement on 2/13/06 because revised biological opinion satisfactory to Plaintiffs.

Next Activity: Resolve any attorneys fees & costs motions.

Fees billed to date: \$612.50 **Costs:** 0.00
CAY Time: 6.5

Hyland, Thomas G. v. D. Kolhage & R. Thurston **04-10102-CIV**
U.S.D.C.SD.Fla. **Judge: Highsmith** **Date Filed: 10/21/04**
Civil Rights action against Deputy Clerk of Court by inmate.
Constitutional Officer/Clerk **RBS**

Current Status: Discovery.

Next Activity: Answers to interrogatories due July 5, 2006.

CAY Time: 8.6
Fees & Costs billed to date: \$5,207.12

FKCC & Last Stand v. FL Admin. Comm., Monroe County DOAH 04-2756

DOAH **Judge: Carolyn Holifield** **Date Filed: 08/05/04**

Administrative Rule challenge to partnership agreement with State.

Growth Management/Planning

RBS

Current Status: Final Order in County's favor issued 6/29/05.

Next Activity: None pending appeal.

Fees billed to date: \$59,464.92 **Costs:** 0.00

CAY Time: 190.1 hours

FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al 3D05-1800

Third DCA **Judges: TBA** **Date Filed: 7/28/05**

Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

Growth Management/Planning

RBS

Current Status: County's brief done.

Next Activity: FKCC's brief due 7/7/6.

Fees billed to date: none

CAY Time: 0.5 hours **Costs:** 0.00

Hardee, Evelyn v. Monroe County CAP-05-255

Circuit Court 16th **Judge: Garcia** **Date Filed: 6/3/05**

Tort action arising from alleged fall at PK Court house. Settled for \$25,000.00.

Risk Management/Public Works

RBS

Current Status: Dismissed 6/7/06.

Next Activity: Once final bill paid, close file.

Fees billed to date: \$5694.33 (thru 1/31/06).

CAY Time: 10.3 hours

Kessler, Stuart v. Monroe County & Tom Willi **CA K 05-1006**
Circuit Court 16th **Judge: Jones** **Date Filed: 10/11/2005**
Whistle-Blower & Civil Rights claim by former employee.
Human Resources/Risk Management **RBS**

Current Status: 4/11/6 Court dismissed 2 of 4 counts, 2 counts remain.

Next Activity: Kessler's deposition scheduled for 7/11/06.

Fees & Costs billed to date: \$11,554.97 (thru 1/31/6)
CAY Time: 28.8

Neuman, Kenneth v. Monroe County **CAK-04-663**
Circuit Court 16th **Judge: Jones** **Date Filed: 6/21/04**
Action for damages and to compel County to issue building permits.
Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Settlement conference 6/16/06.

Fees billed to date: \$2,326.92 **Costs:** 0.00
CAY Time: 5.8 hours

Riverview Consultants, Inc. v. Monroe County **CAK-05-373**
Circuit Court 16th **Judge: Jones** **Date Filed: 4/13/05**
Case alleging tortious interference with contract by airport DBE subcontractor.
Risk Management/Airports/MCSO **PJM**

Current Status: Discovery.

Next Activity: Discovery ongoing.

Fees billed to date: \$743.86 **Costs:** 0.00
CAY Time: 13.9 hours

Paul, Hastings (Bob Freilich & Derek Howard)

Collins, Thomas, et al v. Monroe County **CAM-04-379**

Circuit Court 16th **Judge: Payne** **Date Filed: 11/22/04**

Takings action brought by 11 groups of plaintiffs.

Growth Management/Planning **RBS**

Current Status: Discovery.

Next Activity: Case management conference to be reset.

Total Fees billed to date: \$898,362.59 (thru 6/5/06)

CAY Time: 158.8 hours **Costs:** \$90,302.13

Emmert, Helen & Greg v. Monroe County **CA P 02-520**

Circuit Court 16th **Judge: Garcia** **Date Filed: 10/2/02**

Inverse condemnation and vested rights action.

Growth Management/Planning **RBS/JDS**

Current Status: 4/11/06, Court dismissed Counts 1 & 2 (Ct. 3 still pending).

Next Activity: Court reviewing motion for reconsideration of dismissal.

P, H Billing to date: None

M&H Billing to date: \$94,550.56 as of 10/31/05

CAY Time: 15.5

Galleon Bay v. Monroe County v. State of Florida **CA K 02-595**

Circuit Court 16th **Judge: Payne** **Date Filed: 5/21/02**

Inverse condemnation and vested rights action.

Growth Management/Planning **RBS**

Current Status: 6/13/06, Jury determined property worth \$3million currently.

Next Activity: 6/21/06 – closed session with BOCC on appellate options.

M & H Billing to date: \$54,322.5 thru 1/25/06.

Paul, Hastings Billing: \$245,016.00 **Costs:** \$3,742.59

CAY TIME: 56.5

The Smith Law Firm

Monroe County v. Post Buckley, Schuh, and Jernigan **CAK-95-402**
Circuit Court 16th **Judge: Payne** **Date Filed: 3/30/95**
Malpractice claim against the County's former engineering firm for miscalculation
of bonds necessary to finance improvements to Card Sound Road.
Engineering **RBS**

Current Status: Settled remaining issue.

Next Activity: Close file once dismissed by Court.

Fees & Costs billed to date: \$645,991.54
(doesn't include PBSJ fees paid of \$282,745.01)

Vernis & Bowling of the Florida Keys, P.A.

GAP Properties of SW Florida-I, Inc. v. Monroe County **CAK-04-1321**
Circuit Court 16th **Judge: Jones** **Date Filed: 12/10/04**
Cert. review of action involving failure to obtain plat approval of dock subdivision
and an improper change of use without a major or minor conditional use permit.
Growth Management/Planning **RBS**

Current Status: None pending appeal. See below.

Next Activity: None.

Fees billed to date: \$26,875.00 **Costs:** \$306.43

GAP Properties of SW Florida-I, Inc. v. Monroe County **3D05-2413**
Third DCA **Judges:** **Date Filed: 12/10/04**
Second tier certiorari review of action involving failure to obtain plat approval of
dock subdivision and an improper change of use without a major or minor
conditional use permit.
Growth Management/Planning **RBS**

Current Status: Certiorari denied 4/21/06.

Next Activity: None. Close once final bill paid.

Fees billed to date: trial court costs & fees.

Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry **CAP-04-224**
Circuit Court 16th **Judge: Jones** **Date Filed: 3/2/04**
Action to prevent County from denying permits because of ownership conversion
to condominiums and compel County to accept permit applications.
Growth Management/Planning **RBS**

Current Status: Dismissed with prejudice 6/13/06.

Next Activity: Awaiting appeal period to expire 7/14/06.

Fees billed to date: \$32,290.50 **Costs:** \$2,540.84

Osborn, Jeff v. Monroe County **CAP-04-564**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
1 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: Court denied petition 12/14/05.

Next Activity: None pending appeal.

Fees billed to date: \$14,039.50 **Costs:** \$261.49

Osborn, Jeff v. Monroe County **3D06-52**
Third DCA **Judges: TBA** **Date Filed: 1/11/06**
Certiorari appeal of CA P 04-564 on Northstar Project. V & B handling. **RBS**
Growth Management/Planning

Current Status: Oral argument heard 6/14/06.

Next Activity: Await ruling from the Court.

Billing received to date: see billings for CA P 04-564.

Osborn, Jeff v. Monroe County **CAP-04-565**
Circuit Court 16th **Judge: Garcia** **Date Filed: 11/24/04**
2 of 2 certiorari petitions challenging development approval of Northstar project.
Growth Management/Planning **RBS**

Current Status: 5/15/6 – Court denied certiorari.

Next Activity: None. Appellate period expires 6/16/06.

Fees billed to date: \$3,920.50 **Costs:** \$146.93

Assigned Assistant County Attorney

PJM = Pedro Mercado

JDS = Jerry Sanders

RBS = Bob Shillinger